

Application No.: 09/869,650

Docket No.: 20459-00346-US

REMARKS

A Request for Continued Examination under 37 CFR 1.114 is submitted with this Amendment. Reconsideration of claims 1, 2 and 14-18, and consideration of new claims 22-28 is respectfully requested. Claims 3-8, 11 and 19-21 are withdrawn. Claims 9-10 and 12-13 are canceled.

The examiner withdrew claim 15 from consideration because it is asserted that "applicant did not distinctly and specifically point out the supposed errors in the restriction requirement." Claim 15 has been amended to further define the gas-generating composition that is placed in the car safety device made by the process of claim 1. Written support for the amendment begins at page 6, line 5. Reconsideration of claim 15 is respectfully requested.

Claims 16-18 were rejected under 35 USC 112, first paragraph as failing to comply with the written description requirement. The rejection is traversed with respect to the amended claims. Claims 16-18 have been amended to better define the composition recited in claim 1. The compositions, as claimed, include a binder and the recited amounts of guanidine dinitramide. The claimed ranges recited in the claims are supported by the inventive compositions described in Figure 1.

Claims 1, 2, 14 and 16-18 were rejected under 35 USC 112, second paragraph as being indefinite for failing to distinctly claim the subject matter which applicant regards as his invention. The rejection is traversed with respect to the amended claims.

Claim 2 was also rejected under 35 USC 112, second paragraph as being indefinite because the application does not define any manner or parameters one would use "to adjust the rate" of burn of the gas-releasing composition. The rejection is traversed.

In the application explains that "guanidine dinitramide burns very fast", but the rate of burning can be modified by "admixing other gas-generating ... substances to it." Page 4, lines 8 and lines 30-33. The applicant goes on to explain that one adds guanidyl urea dinitramide to guanidine dinitramide to slow the rate of burn. Id., lines 33-35. Therefore, one skilled in the art would understand that the term at issue means that the more guanidyl urea dinitramide is present in the composition, relative to the amount of guanidine dinitramide, the slower the burn rate.

Application No.: 09/869,650

Docket No.: 20459-00346-US

With regard to the objection of claim 14, the amendments overcome the objection. Claim 14 further defines the form in which the gas-releasing composition is provided for the making of the car safety device.

With regard to the additional objections of claims 1, 2 and 16-18, the applicant respectfully traverses the objection for the reasons provided above.

Claims 1-2, 14 and 16-18 were rejected under 35 USC 103(a) as being unpatentable over Blomquist (US 6,004,410) in view of Langlet (WO 98/55428). The rejection is traversed.

Blomquist (410) teaches the use of guanidine dinitramide in combination with an oxidizer as a gas-generating composition in a vehicle protection device. There is no reference to the use of guanyl urea dinitramide in these combinations. In fact, a list of oxidizers, e.g., the inorganic nitrates and perchlorates, to be used with guanidine dinitramide are described at column 3, lines 63-67.

Langlet teaches the use of guanyl urea dinitramide as a gas-generating composition in a vehicle protection device. The guanyl urea dinitramide can be used alone or as a component in a propellant composition in place of a nitramine propellant. Page 2, lines 28-30. Like Blomquist (410) there is no teaching of a gas-generating composition containing both guanidine dinitramide and guanyl urea dinitramide, as claimed.

Applicant discovered that of all the many different compounds that can be used as a pyrotechnic, the selection of two very specific compounds provides a significant advantage when used in combination as a pyrotechnic composition for an inflatable safety device. That discovery is embodied in applicant's claims directed to a composition comprising guanidine dinitramide and guanyl urea dinitramide. While each of these two compounds was known *per se* and were used as a component in a pyrotechnic composition, as reflected in the cited references, their specific use together has not been described in any of the prior art cited by the examiner. Because there is no teaching or suggestion in the art that these two specific compounds should be selected from the vast array of available compounds and combined, and there is no reasonable expectation of success (i.e., any benefit) taught by the art were that to be done, the rejection under 103(a) is improper and should be withdrawn. *In re Laskowski*, 871 F.2d 115, 117 (Fed. Cir. 1989)("[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification").

Application No.: 09/869,650

Docket No.: 20459-00346-US

In the United States, a proper rejection under 103(a) requires that the references cited against the claims must provide to a person skilled in the art having full knowledge of the art, the motivation for making such a composition. Some reason must exist from the teachings of the references (and not from the applicant's disclosure) to select these specified ingredients and put them together in a composition. It is not enough simply to say that there is a general teaching or desire to combine materials (and there is not) -- instead, one skilled in the art must be motivated by some teaching in the art to make the specific combination claimed. Then, only if such motivation exists (which applicant submits does not exist here), the art must teach a reasonable expectation of a successful result. The examiner has the initial burden to establish both motivation and reasonable expectation. Restated, the examiner must first establish, from the art, the motivation to select the ingredients, and then establish a reasonable expectation of success resulting from that selection.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 20459-00346-US from which the undersigned is authorized to draw.

Dated: March 24, 2004

Respectfully submitted,

By 

Joseph Barrera

Registration No.: 44,522

CONNOLLY BOVE LODGE & HUTZ LLP

1990 M Street, N.W., Suite 800

Washington, DC 20036-3425

(202) 331-7111

(202) 293-6229 (Fax)

324534